

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

ILLYA RAY DANIEL	§	
v.	§	CIVIL ACTION NO. 9:06cv124
BRAD LIVINGSTON, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Plaintiff Illya Ray Daniel, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On July 10, 2006, Daniel was ordered to pay an initial partial filing fee of \$27.00, pursuant to 28 U.S.C. §1915(b). Daniel received a copy of this order on July 18, 2006, but to date has not complied, nor has he responded in any way.

On August 28, 2006, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute, with the statute of limitations suspended for a period of 60 days. Daniel received a copy of this Report on or before September 6, 2006, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has carefully reviewed the pleadings and documents in this case, as well as the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED without prejudice for failure to prosecute. It is further

ORDERED that the statute of limitations be and hereby is SUSPENDED for a period of 60 days following the date of entry of final judgment in this case. *See Mills v. Criminal District Court No. 3*, 837 F.2d 677, 679 (5th Cir. 1988). Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So **ORDERED** and **SIGNED** this **4** day of **October, 2006**.



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Ron Clark, United States District Judge